MEDICAL JURISPRUDENCE

Chiropractors and the Federal Food and Drug Act

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IN THE CASE of the *United States vs. Twenty-two Devices*, each being labeled "Halox Therapeutic Generator," 98 Fed. Supp. 914, a proceeding was instituted by the United States under the Federal Food, Drug and Cosmetic Act seeking a decree condemning the 22 devices. The contention of the United States was that the generators were misbranded when introduced into interstate commerce in violation of law.

The generators were for the electrolysis of sodium chloride solution. The device was housed in a leatherette-covered plywood cabinet, its base being approximately 12 inches by 15 inches, and its height approximately 12 inches. At the front of the cabinet was a control panel. A glass jar was placed inside the cabinet which was partially filled with a saturated sodium chloride solution. Carbon electrodes extended into this solution. When the generator operated, electricity was carried to these electrodes. As a result of the electrolysis of the salt solution, chlorine gas was produced. A small fan blew a current of air through the jar and out through a rubber hose. Thus a mixture of air and chlorine gas went into the tube and this was administered to the person receiving the treatment known as "chlorine inhalation therapy."

The Halox Therapeutic Generator Company was owned by Reverend Roger Aull who also owned a second organization known as the "Father Aull Foundation," which promoted the distribution of these generators.

The machines were manufactured in New Mexico and transported from there to California. No written printed or graphic matter accompanied any of the generators. They were shipped to a chiropractor in California, licensed under the laws of the State of California.

The generators did not carry directions for use in compliance with the Federal Statute but it was contended that they were exempt on the theory that they were delivered to physicians to be dispensed by physicians in their professional practice. (Devices delivered to a physician are exempt under the act.)

The court immediately discussed the difference between a chiropractor and a physician. It stated that a chiropractor "is one skilled in the art of healing, in a limited manner, although not one skilled in physic, since the latter term refers to the practice of medicine." It also pointed out that under California law a chiropractor is not entitled to use the term physician or other letters, prefixes or suffixes that would indicate that he is practicing a profession for which he is not licensed. The court concludes that "one who is licensed to practice chiropractic in the state of California is not a physician by virtue of such license."

The court further substantiates its position by saying that under the federal statute only those physicians are exempt who are licensed by law to administer or apply the drug or device in question. Thus under California law a chiropractor is only authorized to practice chiropractic as taught in chiropractic schools or colleges and also to use all necessary mechanical, and hygienic and sanitary measures incident to the care of the body, but is not authorized to practice medicine, surgery, osteopathy, dentistry or optometry, nor use any drug or medicine now or hereafter included in materia medica.

The court then adopted the definition of the practice of chiropractic found in *People vs. Fowler*, 32 Cal. App. Supp. 737, that "chiropractic is a system for the practice of adjusting the joints, especially at the spine, by hand, for the curing of disease." The final conclusion was that the chlorine gas inhalation therapy administered by the machines in this case does not fall within the meaning of "chiropractic" since it in no way involves the manipulation of joints by hand or otherwise.

Thus, the 22 devices were condemned and disposed of by destruction in accordance with the law.